

# The Farm Bills

Sanya Kapoor

Law Student, Christ University, Delhi, India

## 1. Summary

The three farm laws have been projected by the government as major reforms in the agricultural sector that will remove the middlemen and allow farmers to sell anywhere in the countryside until, 2020, the first sale of agricultural produce could occur only at mandis of the agricultural produce marketing committee. However, after the farmer's produce trade and commerce act, 2020 which involves promotion and facilitation came into force, it allows farmers to sell outside APMC in India.

1) The Farmers Agreement on Price Assurance and Farm Services Act, 2020:

It became an act on September 27, 2020

The act 'protects and empowers' farmers to engage with agri-business firms, processors, wholesalers, exporters and large retailers for farm services and selling at mutually agreed remunerative price framework in a fair and transparent manner.

2) The Farmer's Produce Trade and Commerce Act 2020:

It became an act on September 27, 2020

The act provides that the farmers and traders should have "freedom of choice" in the sale and purchase of farmer's produce which facilitates remunerative prices through competitive and alternative trading channels. It aims to promote efficient inter-state and intra-state trade and commerce of farmer's produce.

3) The Essential Commodities Act, 2020

It became an act on 27 September, 2020

It aims to remove stringent restrictions on stock, movement and price control of agricultural foodstuffs for attracting private investments in agricultural marketing and infrastructure.

## 2. Analysis

Despite of all the benefits which are being provided by all three act The Farmers union in Punjab and Haryana say the recent laws enacted at the centre will dismantle the minimum support price system. Overtime big corporate houses will dictate terms and farmers will end up getting less for their crops. Farmers fear that with the virtual disbanding of mandi system, they will not get an assured price for their crop. So, the key demands is the withdrawal of the three laws which deregulate the sale of their crop. The Farmer Unions could also settle for a legal assurance that the MSP system will continue through an amendment to the laws. The MSP is a huge issue because it effects the farmers as MSP is the minimum price paid by the government when it procures any crop from the farmers. it is announced by the state-run-commission for agricultural costs and prices for more than

22 commodities on an annual basis, after calculating the cost of cultivation. Food Corporation of India only buys paddy and wheat at these prices and then sells these food grains at highly subsidised prices to the poor and is compensated by the government for its losses.

## 3. Introduction

***Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020:***

Background: On 5 June 2020, the act was promulgated by the Union Cabinet.

Act: It creates a national framework for contract farming through an agreement between a farmer and a buyer before the production or rearing of any farm produce.

Provisions:

- a) Farming agreement: The act provides for a farming agreement between a farmer and a buyer prior to the production of rearing of any farm produce.
- b) Minimum period of farming agreement: The minimum period of farming agreement shall be for one crop season or one production cycle of livestock.
- c) Maximum period of farming agreement: It shall be for 5 years. It also states that if the production cycle of any farming produce is longer and may go beyond 5 years, the maximum period of farming agreement may be mutually decided by the farmer and the buyer which shall be mentioned in the farming agreement.
- d) Pricing of farming produce: The pricing of farming produce and the process of price determination should be mentioned in the agreement. For prices subjected to variation, a guaranteed price must be specified in the agreement.
- e) Settlement of dispute: Conciliation Board, Sub-Divisional Magistrate and Appellate Authority.

***Farmer's Produce Trade and Commerce (Promotion and Facilitation) Act, 2020***

Background: On 5 June 2020, the act was promulgated by the Union Cabinet.

Act: It permits intra and inter-state trade of farmer's produce beyond the physical premises of Agricultural Produce Market Committee markets and other markets notified under the state APMC Acts.

Provisions:

- a) Trade of farmer's produce: The act allows farmers to trade in outside trade area such as farm gates, factory premises.

- b) Alternative trading channels: It facilitates lucrative prices for the farmers via alternative trading channels to promote barrier-free-intra state and inter-state trade of agriculture produce.
- c) Electronic trading: It helps to facilitate direct and online buying and selling of the agricultural produce via electronic devices and the internet.
- d) Market fee abolished: As per the act, the state governments are prohibited from levying any market fee or cess on farmers, traders and electronic trading platforms for trading farmers produce in an “outside trade area”.

### **Essential Commodities (Amendment) Act, 2020:**

Background: On 5 June, it was promulgated by the Union Cabinet.

Act: It was an act of Indian Parliament which was enacted in 1955 to ensure the delivery of certain commodities, supply of which if obstructed owing to hoarding or black-marketing would affect the normal life of the people. This includes foodstuff, drugs, fuel etc.

### **3.1 Research Question**

Are Farm Laws 2020 ‘Corporate-Friendly’ and ‘Anti-Farmer’?

### **3.2 Hypothesis**

All three acts serve the different purpose and have their own benefits but we can say that farmers are not ready to accept them due to the gross communication failure between the government and the people and the interference of the opposition.

### **3.3 Objectives**

The new farm laws are intended to help small and marginal farmers who don't have means to either bargain for their produce to get a better price or invest in technology.

The act on Agri market allows farmers to sell their produce outside APMC ‘mandis’ to whoever they want. Anyone can buy their produce even at their farm gates.

Though commission agents of mandis and states could lose commission and mandi fees. So, farmers will get better prices through competition and cost-cutting on transportation.

The law on contract farming will allow farmers to enter into a contract with Agri- business firms or large retailers on pre-agreed prices of their produce.

This will help small and marginal farmers as the legislation will transfer the risk of market unpredictability from the farmer to the sponsor.

This will attract private sector/foreign direct investment into agricultural sector.

### **3.4 Scope**

The government claims these acts will transform Indian Agriculture and attract private investment. The Farmers Agreement on Price Assurance and Farm Service Act, 2020, provides for contract farming under which farmers will produce crops as per contracts with corporate investors for a mutually agreed remuneration.

The protesting farmers fear that powerful investors would bind them to unfavourable contracts drafted by big corporate law firms, with liability clauses that would be beyond the understanding of poor farmers in most cases.

According to the government, the Farmers Produce Trade and Commerce (Promotion and Facilitation ) Act, 2020 liberates farmers by giving them the freedom to sell anywhere.

The opposition says this would lead to corporatisation of agriculture, with the market along with the monsoon, becoming an unpredictable determinant of the destiny of farmers.

They argue that farmers can sell outside the APMC even now, and most in fact do, albeit after paying the required fees or cess.

In Punjab and Haryana, the epicentre of the protests, the markets fee, rural development fee, and Arhatiya's commission are 3%, 3% and 2.5% and 2%, 2%, 2.5%. These are big sources of state revenue – with states not permitted to levy market fee/cess outside APMC areas under new laws, Punjab and Haryana could lose an estimated Rs 3, 500 crore and RS 1, 600 crore each year.

### **3.5 Concept**

The basic concept is that the farmers are not ready to accept the farm laws or welcome any amendments as when Union minister for Agriculture (Narendra Singh Tomar ) Stated that “ the Farm Laws 2020 have been made keeping in mind the benefits of farmers throughout the country. The government is concerned about farmers and wants the agitation to end but due to no solutions forthcoming issues could not be resolved”. But the Farmers’ Union have asked for a repeal of the Farm Laws 2020, the Central Government suggested amendments. Some of them were:

- The 10<sup>th</sup> round of talks was scheduled on 19 January 2021 which is postponed by a day to 20 January 2021 which held at Vigyan Bhawan, New Delhi with the representatives of 41 farmer unions.
- The government has proposed to the farmer's union that the implementation of Farm Laws 2020 should be kept on hold for a period of one to one and a half years. Amid the said time period, the representatives of farmer's union and the government can discuss the issues related over the contentious Farm Acts 2020 to arrive on an appropriate solution.
- The 11<sup>th</sup> round of talks between the centre and the farmers union was scheduled on 22 January 2021. The farmers refused to accept the centre's proposal to put the controversial laws on hold for a year and a half.

- Still no solution is found till date.

Due to this some protests took place:

### 1) Tractor March on 26 January 2021:

The Supreme Court stated that the proposed tractor rally on the Republic Day by protesting farmers is a 'law and order' matter and Delhi Police will decide who should be allowed to enter Delhi.

Groups of protesting farmers camping at Singhu, Tikri and Ghazipur border took out a massive rally against the Farm Laws 2020 on the occasion of 72<sup>nd</sup> Republic Day.

As per Delhi Police, over 300 barricades were broken and 17 government vehicles were damaged by the protesting farmers, forcing their way into city.

Delhi Police has so far registered 38 cases and arrested 84 people in connection with the violence on 72<sup>nd</sup> Republic Day.

### 2) Chakka Jam by Farmers

On 4 February 2021, Bhartiya Kisan Union leader Rakesh Tikait stated that there will be a three-hour-long 'chakka jam' on 6 February 2021.

As per a statement released by the farmers group, all roads for entering Delhi remain open except where farmers protest sites are already located.

### 3) Income Tax Raid on Arhityas

The income tax raids were conducted at the premises of big Arhityas of Punjab within four days of issuing notices, without waiting for responses to the notices. Around 16 Arhityas were served income tax notices. there ere around 28, 000 licensed commission agents in Punjab.

As per leaders different unions, Arhityas were standing shoulder to shoulder with farmers in their ongoing protest against the Farm Laws 2020 and the raids were an attempt to divide the farmer and arhitya unity to sabotage this movement.

Thus arhityas in Punjab decided to shut down all the grain markets in the state from 22-25 December 2020 to express resentment over the income tax raids.

### 4) Rail Roko

On 24 September, 2020 farmers started a "railroko" campaign following which train services of Punjab were affected. On 23 October, some farmer unions decided to call off the campaign as supplies of fertilizers and other goods in the state were starting to run short.

### 5) Legal Provisions

Federalism essentially means both centre and states have the freedom to operate in their allotted spheres of powers in coordination with each other. The seventh schedule of the constitution contains three lists that distribute power between

the centre and the state. there are 97 subjects in the Union List on which parliament has exclusive power to legislate (Article 246) ; the state list has 66 items on which states alone can legislate ; the concurrent list has 47 subjects on which both centre and state can legislate but in case of conflict the law made by centre prevails (article 254). Parliament can legislate on an item in the state list under certain specific circumstances laid down in the constitution.

Entries 82, 86, 87 and 88 in the union list mention taxes and duties on income and assets excluding those in respect of agriculture.

In state list, eight entries contain terms relating to agriculture: entry 14 (agricultural education and research, pests, plant diseases); 18 ( right in or over land, land tenures, rents, transfer agricultural land, agricultural loans etc); 28 (markets and fairs); 30 (agricultural indebtedness); 45 (land revenue, land records); 46 (taxes on agricultural income); 47 (succession of agricultural land); and 48 (estate duty in respect of agricultural land ).

In the concurrent list, entry 6 mentions transfer of property other than agricultural land ; 7 is about various contracts not relating to agricultural land and 41 deals with evacuee property, including agricultural land.

The Farmer's Produce Trade and Commerce ( promotion and facilitation ) act, 2020files in the face of entry 28 of the state list (markets and fairs) and The Farmers (Empowerment and Protection ) Agreement on price Assurance and Farm Services Act, 2020 impinges on entries 14, 18 and 46 of the state list and entry 7 of the concurrent list.

### 6) Case Laws

Union of India v H.S Dhillon (1972) constitutionality of parliamentary laws can be challenged only on two grounds: that the subject is in the state list, or that it violates fundamental rights. Invoking parliamentary powers on agriculture consistent with the scheme of federalism and spirit of constitution. Some basic questions which were raised were that does parliament have the power to enact laws on agricultural markets and lands?

Ram Krishna Dalmia v Justice SR Tendolkar (1958), the Supreme Court will start the hearings after presuming the constitutionality of these laws ; the burden on states and individuals who challenged these acts will be quite heavy. Generally. The Supreme Court does not stay the implementation of parliamentary laws. CAA and UAPA were not stayed.

In State of West Bengal v Union of India (1962), the Supreme Court held that the Indian Constitution is not federal. But in SR Bommai v Union of India (1994), a nine-judge Bench Bench held federalism was part of the basic structure of the constitution. And it mentioned that " neither the relative importance of the legislative entries in schedule 7, lists 1 and 2 of the constitution, nor the fiscal control by the union per se are decisive to conclude the constitution is unitary. the respective legislative powers are traceable to articles 245 and 254. So, the state qua the constitution is

federal in structure and independent in its exercise of legislative and executive power’.

In State of Rajasthan v G Chawla (1959), courts have used the doctrine of ‘pith and substance’ to determine the character of legislation that overlaps between entries. The constitutionality of legislation is upheld if it is largely covered by one list and touches upon the other list only incidentally. But the 2 new farm acts go beyond that- they impinge on entries in the state list.

In ITC v APMC (2002), the Supreme Court upheld the validity of several state laws relating to agricultural produce marketing and struck down the central Tobacco Board Act, 1975. It interpreted entry 28 of the state list (markets and fairs) in favour of states and rejected the centre’s argument based on entry 52 of the union list read with entry 33 of concurrent list that tobacco is an industry declared as being under the control of Parliament in public interest. It said raw materials or activity that does not involve manufacture or production cannot be covered under ‘industry’.

#### 4. Analysis on the Basis of Research Paper

##### 1) Central Government proposed that the respective state government can levy cess on private mandis:

The proposal was rejected by the farmers as they believe that the creation of private mandis along with APMC will drive agriculture business towards private mandis, ending government markets, intermediary systems and APMC. As a result, big corporate houses will overtake markets, thereby procuring farm produce at incidental rates. The farmers believe that the government may delay the procurement turning the public markets inefficient and redundant.

##### 2) Central government proposed that they will give written assurance for the continuation of the existing MSP system:

The proposal was rejected by the farmers as they believe that the new farm laws 2020 are brought to dismantle APMCs. So, they are demanding a comprehensive Act on MSP pan India and for all crops. They are of the view that the written assurance from the Union government is not a legal document and holds no guarantee.

##### 3) Central government proposed that they will direct the state government to register traders in order to regulate them:

The proposal was rejected by the farmers as the new farm laws 2020 has no provision to regulate the traders. As per new laws, any PAN cardholder can procure grains from the markets at wishful prices and hoard the farm produce. The farmers believe that the central government is not ready to take responsibility for the ongoing issue as they want state government to regulate the traders.

##### 4) Central government proposed that under the contract farming law, farmers will have the alternative to approach the court and their land will be safe as no loan will be given on farmers land and their buildings by mortgaging it:

The proposal was rejected by the farmers as the history of the contract farming has many examples of non- payment by

the companies making various excuses like substandard produce. For example: in sugarcane produce, payments were held for years; many cases of non -procurement have been witnessed citing ‘poor quality’ driving the farmers into the debt trap. Farmers do not have money to repay the loans and have no option to sell /lose their lands.

#### a) Section Based Analysis

Sub Index

- THE FARMERS (EMPOWERMENT AND PROTECTION) AGREEMENT ON PRICE ASSURANCE AND FARM SERVICE ACT, 2020 (SECTION 5).....22
- THE FARMERS PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION ) ACT, 2020 (SECTION 4).....23
- THE ESSENTIAL COMMODITIES (AMENDMENT), ACT 2020.....25

#### The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, 2020

##### Section 5

The price of farmers’ produce may be mentioned in the farming agreement. In the event that such price is subject to variation, the agreement should expressly state a guaranteed price to be paid to the farmer for their produce, and a clear price reference for any additional amount to be paid – including a bonus or premium “...to ensure best value to the farmer.” This price may be linked to prevailing prices in specified Agricultural Price Market Committee yards (which are established for regulating markets and trade in farm produce under various state government laws), or electronic trading and transaction platforms (set up to facilitate the trade and commerce of farming produce through a network of electronic devices and internet applications).

Where farming agreements relate to seed production, the sponsor shall pay the farmer not less than two-thirds of the agreed amount at the time of delivery, and the remaining amount ‘after due certification’, but not later than 30 days after delivery. In other cases, sponsors may pay the agreed amount at the time of accepting the delivery of farm produce and issue a receipt slip with details of the sale. The state government may prescribe the manner in which payments shall be made to farmers.

If, the delivery of any farming produce is to be taken by the sponsor under the farming agreement, they shall take such delivery within the agreed time. Before accepting the delivery, the sponsor may inspect the quality or any other feature of such produce as specified in the agreement.

A farming agreement may be linked with insurance or credit instruments under any scheme of the central or state government, or through any financial service provider, to ensure ‘risk mitigation’ and flow of credit to the farmer, sponsor or both.



**The Farmers' Produce Trade and Commerce (Promotion and Facilitation), Act 2020****Section 4:**

Any farmer, trader or electronic trading and transaction platform shall have the freedom to carry on inter-state or intra-state trade and commerce in farmers' produce in a trade area. Farmers, traders and electronic trading and transaction platforms shall not be charged any market fee or cess under any state government law for trade and commerce in 'scheduled' farmers' produce (agricultural produce regulated under an APMC Act) in any trade area.

Traders may engage in the inter-state or intra-state trade of farmers' produce in a trade area, provided that they have a permanent account number (PAN) as per the Income-Tax Act, 1961, or any other document mentioned by the central government. This does not apply to farmer producer organisations or agricultural cooperative societies.

The central government may – if it is of the opinion that it is necessary and expedient to do so in public interest – prescribe a system for the electronic registration of a trader, modalities for trade transactions, and modes of payment for scheduled farmers' produce in a trade area.

Traders shall make payments for the scheduled farmers' produce on the same day or within a maximum of three working days, provided that the farmer is given a receipt mentioning the due payment amount on the day of the transaction. The central government may prescribe a different procedure of payment by farmer produce organisations or cooperative societies.

**The Essential Commodities (Amendment) Act, 2020:**

The 1955 Act aims to regulate the production, supply and distribution of, and trade and commerce in, certain commodities, in the interest of the general public.

Essential commodities refers to fertilisers – inorganic, organic or mixed; foodstuffs including edible oilseeds and oils; hank yarn made wholly from cotton; petroleum and petroleum products; raw jute and jute textiles; seeds of food crops, cattle fodder, fruits and vegetables; cotton and jute seeds; drugs, surgical and N95 masks, and hand sanitisers.

The Amendment adds sub-section (1A) to section (3) of the 1955 Act. The original section (3) said that the central government may regulate or prohibit the production, supply and distribution of, or trade and commerce in, essential commodities. The government may do so if it is of opinion that it is 'necessary or expedient' for maintaining or increasing supplies of any essential commodity, ensuring its 'equitable distribution' and 'availability at fair prices', or securing such commodities for the defence of India.

The Amendment states that the supply of 'foodstuffs' – including cereals, pulses, potato, onions, edible oilseeds and oils – may only be regulated under 'extraordinary circumstances' such as war, famine, 'extraordinary' price rise and 'natural calamity of grave nature'. The central government may do this through a notification in The Gazette of India.

Any action on imposing stock limits on agricultural produce shall be based on price rise. An order for regulating the stock limit of such produce may be issued under this Act only if there is a 100 per cent increase in the retail price of horticultural produce, or a 50 per cent rise in the retail price of 'non-perishable agricultural foodstuffs'. The increase should be over the price prevailing in the preceding 12 months, or the average retail price of the last five years – whichever is lower.

Such orders for regulating stock limit shall not apply to a 'processor' or 'value chain participant' of any agricultural produce, if the stock limit of such person does not exceed the overall ceiling of installed capacity of processing, or the demand for export in case of an exporter. A 'value chain participant' for agricultural products, includes those involved in production, processing, packaging, storage, transport and distribution – each stage where 'value is added' to the product. Nothing in sub-section (1A) – which the Amendment inserted in the 1955 Act – shall apply to any order relating to the Public Distribution System made by the government under any law in force.

**5. Conclusion**

So, we conclude that the farm laws are not anti-farmers but there some amendments which needs to be made and there shall be proper communication between the farmers and the government, the opposition should act as a mediator rather than playing politics. let us not divide ourselves into 2 parties, let us sit and discuss and resolve the matter because India is itself suffering from the covid-19 situation. all of us should be united during this time and keep our safety on top. the motives of the government behind this legislation was to provide protection to the farmers engaging with exporters, wholesalers, processors and firms for sale of future produce or farm services at adequate prices. It will also help farmer and reduce the cost of marketing. But if the farmers are not satisfied with the same then the amendments are necessary to make people comfortable who are actually are in that profession and have to practically follow it.

**References**

- [1] Farm Laws, 2020
- [2] <https://indiankanoon.org/>
- [3] <https://www.lawoctopus.com/>
- [4] <https://indianexpress.com/>
- [5] <https://timesofindia.indiatimes.com/india>
- [6] <https://enterslice.com/learning/farmers-agreement-of-price-assurance-bill-2020/>
- [7] <https://www.jagranjosh.com/general-knowledge/farm-bills-indian-farm-reforms-2020-1606901455-1#:~:text=These%20Farm%20laws%20are%20as%20follows%3A%201-%20Farmers%27,Protection%29%20Agreement%20on%20Price%20Assurance%20and%20Farm%20Services>
- [8] <https://indianexpress.com/article/explained/an-expert-explains-farm-acts-and-federalism-6622769/>
- [9] <https://timesofindia.indiatimes.com/india/what-are-new-farm-laws-and-why-farmers-are-protesting/articleshow/79609234.cms>